

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

May 3, 2013

FOR THE TENTH CIRCUIT

**Elisabeth A. Shumaker
Clerk of Court**

In re:

JON DEE MICAH PENNINGTON,

Petitioner.

No. 13-2034
(D.C. Nos. 2:11-CR-00345-RB-1 &
2:12-CV-00536-RB-GBW)
(D. N.M.)

ORDER


Before **BRISCOE**, Chief Judge, **LUCERO** and **HOLMES**, Circuit Judges.

Petitioner, a federal prisoner, has filed a motion in the district court seeking relief under 28 U.S.C. § 2255. He seeks a writ of prohibition to prevent the district court from denying him the right to represent himself at an evidentiary hearing in the § 2255 proceeding. He also maintains that the district court refuses to permit him to appear in person at the hearing.

On March 25, 2013, the district court granted Petitioner's Second Motion to Dismiss Counsel, allowing him to represent himself and terminating his appointed counsel's representation. The district court further ordered the United States Marshal's Service to transport Petitioner so that he can appear in person at the evidentiary hearing.

Because Petitioner has received the relief he requested, his petition for a writ of prohibition is denied as moot. Petitioner's motion to proceed in this matter without prepayment of costs or fees is granted.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", written in black ink on a light blue dotted background.

ELISABETH A. SHUMAKER, Clerk